

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 6/3/08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x-----  
08 Civ. 1859 (PKC)

SHONECA DAVIS, DAWUD EUDELLE, JACLYN  
PAGNOTTA, and DAVID POMALES, individually  
and on behalf of all others similarly situated, and

ECF CASE

KENNETH FINGERMAN,

Plaintiffs,

STIPULATION AND PROPOSED  
ORDER

- against -

ABERCROMBIE & FITCH CO., ABERCROMBIE &  
FITCH STORES, INC., ABERCROMBIE & FITCH  
TRADING CO., d/b/a Abercrombie and Fitch,  
Abercrombie, and Hollister and Ruehl,

Defendants.

-----x-----  
In light of the parties' ongoing efforts to resolve the above-captioned matter, the parties stipulate as follows:

1. Adjournment of Briefing Schedule: The Court's Order of May 9, 2008 is modified as follows: Plaintiff's motion for collective action status, etc. shall be due July 9. Defendants shall respond and may move to dismiss on the basis of the Rule 68 Offer of Judgment by August 11. Plaintiff's reply and response shall be due September 1. Defendants' reply on their motion shall be due September 13.

2. Tolling: The parties agree that, if this Court orders notice to be issued to similarly situated employees under the Fair Labor Standards Act, 29 U.S.C. §216, the applicable statutes of limitations governing the Fair Labor Standards Act claims of putative class members who opt in to this action after such notice is issued are tolled for 30 days (the "Tolling Period"). Thus, if such notice issues pursuant to this Court's order, then opt-in plaintiffs following such notice will have the applicable statutes of limitations for his or her claim under the Fair Labor Standards Act extended by a 30 day period. The parties agree that this Stipulation does not waive or affect any defenses that existed prior to the execution of this Stipulation, including the defense that any claims may have expired prior to the issuance of such notice.

So Stipulated:

VLADECK, WALDMAN, ELIAS  
& ENGELHARD, P.C.

By: Debra L. Raskin  
Debra L. Raskin (DR 5431)  
Maia Goodell (MG 8905)  
Attorneys for Plaintiffs  
1501 Broadway, Suite 800  
New York, New York 10036  
(212) 403-7300

VORYS, SATER, SEYMOUR  
& PEASE LLP

By: Sandra J. Anderson/DR  
Sandra J. Anderson  
Attorneys for Defendants  
52 East Gay Street  
P.O. Box 1008  
Columbus, OH 43216-1008  
(614) 464-6405

SO ORDERED:

P. Kevin Castel  
Honorable P. Kevin Castel  
Dated: 6-3-08